



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald Gilbert Carpenter Examiner: N. Ponomarenko
Application No.: 09/935,936
Filed: August 23, 2001 Art Unit: 2834
For: ENERGY CONVERSION TECHNIQUE

THIRD REQUEST FOR REINSTATEMENT OF THE APPEAL

Honorable Commissioner of Patents and Trademarks
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

On July 5, 2005, a "Detailed Action Notification of Non-Compliance With The Requirements of 37 C.F.R. 41.37(c)"[sic] was mailed from the Patent and Trademark Office in connection with the above-identified matter.

On July 19, 2005, applicant's undersigned counsel filed a Response to the Non-Compliance Notification, which filing was within the one month time period specified in the Notification under consideration to respond to the issues raised in the Notification.

The nature of the Notification, however, is not at all clear with respect to applicant's Notice of Appeal lodged October 2, 2003, and the two subsequently filed Supplemental Appeal Briefs. Thus, is the July 5, 2005, Notification an attempt to reopen the prosecution of this application? Accordingly, to avoid any possible interpretation that examination has been improperly reopened and to insure that this matter continues to move toward appeal, applicant hereby files this Request for Reinstatement of the Appeal under 37 C.F.R. §1.193(b)(2)(ii).

Applicant's third supplemental appeal brief is submitted herewith and reinstatement of the appeal filed October 2, 2003, is earnestly solicited.

Respectfully submitted,

JOHN P. SINNOTT
Attorney for Applicant
Registration No. 21,001

August 29, 2005
P.O. Box 1547
1007 N. Patterson Street
Valdosta, GA 31603-1547
P:(229) 244-5400
F:(229) 244-5475

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald Gilbert Carpenter **Examiner:** N. Ponomarenko
Application No.: 09/935,936
Filed: August 23, 2001 **Art Unit:** 2834
For: ENERGY CONVERSION TECHNIQUE

THIRD SUPPLEMENTAL APPEAL BRIEF UNDER 37 C.F.R. §1.193(b)(2)(ii)

Honorable Commissioner of Patents and Trademarks
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Detailed Action mailed from the United States Patent and Trademark Office on July 5, 2005, titled "Notification of Non-Compliance with the Requirements of 37 CFR 41.37(c) [sic]" in connection with the above-identified patent application.

The text of the detailed action, moreover, states that applicant's "brief" does not satisfy the requirements of 37 CFR 41.37(c)(1); 37 CFR 41.37(c)(1)(i); and 37 CFR 41.37(c)(1)(ii) [sic].

Applicant's copy of the United States Code of Federal Regulation; Title 37 does not list any of the cited regulations: 37 CFR 41.37(c); 37 CFR 41.37(c)(1)(i); and 37 CFR 41.37(c)(1)(ii). A copy of the Table of Contents for Title 37 confirming the foregoing statement is attached to this brief (Exhibit A).

How can applicant comply with the requirements of a Federal Regulation that does not exist?

Nevertheless, to advance this matter to the Board of Patent Appeals and Interferences, it appears that the gravamen of the alleged non-compliance may refer to 37 CFR ¶1.192(c)(1) and (2). The "brief" in question, moreover, is applicant's Appeal Brief that was filed on January 7, 2004, and is not either or both of the two Supplemental Briefs filed in this matter on June 29, 2004, and January 13, 2005, respectively, otherwise these Supplemental Briefs would have been identified as such in the Detailed Action under consideration. The provisions of ¶1.192(c)(1) and (2) require that the applicant's brief shall, under appropriate headings, identify the real party in interest [37 CFR ¶1.192(c)(1)] and any related appeals and interferences [37 CFR ¶1.192(c)(2)].

Attention in this respect is invited to the attached copy of page 1 of applicant's Appeal Brief filed January 7, 2004 (Exhibit B), the relevant portions of which are quoted below:

(1) Real Party in Interest

The applicant named in the caption of this Brief, DONALD GILBERT CARPENTER, is the real party in interest.

(2) Related Appeals and Interferences:

None.

Applicant's January 7, 2004, Appeal Brief, it is urged conforms in all respects with the terms of 37 CFR ¶1.192(c)(1) and (2).

The First and Second Supplemental Appeal Briefs, filed by applicant on June 29, 2004, and January 13, 2005, it should be noted are supplemental to the January 7, 2004, Appeal Brief and are not substitutes for the January 7, 2004, Appeal Brief. As such, and quite properly, these two supplemental briefs address themselves specifically to the issues raised in the respective Office communications dated June 7, 2004, and September 15, 2004, and do not duplicate matter already of record in the January 7 Appeal Brief.

Turning now to the "Response to Amendment" on page 2 of the Detailed Action, it seems that these comments are directed to the last amendment that applicant filed in this case on March 7, 2003, in which applicant submitted a Declaration under Rule 132.

The objection to the declaration is:

Personal declaration on the merits of the invention by the inventor has been considered and found moot.

"...and found moot." What can that phrase mean?

One dictionary definition of the term "moot" is "...not worthy of consideration or discussion because it has been resolved or no longer needs to be resolved" (Exhibit C).

Search the record of this prosecution and nowhere can be found any resolution or attempt at a resolution by the Examiner of the data presented in applicant's Rule 132 Declaration.

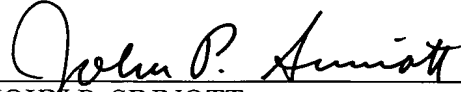
The failure further in the detailed action to consider applicant's Rule 132 Declaration as "evidence" and the citation of Manual of Patent Examining Procedure (MPEP) ¶608.03 in support thereof is equally puzzling. Nowhere in MPEP ¶608.03 is the word "evidence" even mentioned. At best, applicant can only note the Examiner's comment.

In summary, applicant once more respectfully requests that the Examiner properly initial applicant's Information Disclosure Statement (filed March 7, 2003); and either allow claims 1 through 8 now standing in the case, or issue an Answer to the Appeal Brief filed January 7, 2004, and the two subsequently filed Supplemental Appeal Briefs and forward this

case, which has been on file for more than four years, to the Board of Patent Appeals and Interferences without further delay.

Respectfully submitted,

LANGDALE & VALLOTTON, LLP

A handwritten signature in black ink, appearing to read "John P. Sinnott", is written over a horizontal line.

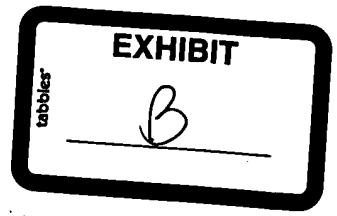
JOHN P. SINNOTT

Attorney for Applicant

US Patent and Trademark

Office Registration No. 21,001

August 25, 2005
P.O. Box 1547
1007 N. Patterson Street
Valdosta, GA 31603-1547
P:(229) 244-5400
F:(229) 244-5475



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER **Art Unit:** 2834
Serial No.: 09/935,936
Filed: August 23, 2001
For: Energy Conversion Technique **Examiner:** Nicolas Ponomarenko

Appeal Brief

Honorable Commissioner of Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith, in triplicate, is applicant's Brief on Appeal in the above-identified matter.

(1) Real Party in Interest:

The applicant named in the caption of this Brief, DONALD GILBERT CARPENTER, is the real party in interest.

(2) Related appeals and Interferences:

None.

(3) Status of Claims:

Claims 1 through 8, inclusive, are pending in this application. No claims have been cancelled and pending claims 1 through 8, inclusive, are on appeal.

(4) Status of Amendments Filed Subsequent to Final Rejection:

None.

(5) Summary of Invention:

As illustrated in Fig. 3, apparatus for converting kinetic energy into electrical energy has a first moving system 21 and a second moving system 22 (Specification, p. 18, para. 73, lines 21 to 25). The second moving system 22 moves toward and away from the first moving system 21 (Specification, p. 18, para. 73, line 25 to p. 19, line 5).

Objects 46, 47 are ejected electromagnetically by ejectors 38, 40 from respective openings 30, 32 in face 25 of the moving system 21 in the direction of arrow 48 (Specification, p. 19, para. 74, lines 6 to 14). The openings 30, 32, in the face of the first moving system, are aligned with receptor openings 35, 37 (Fig. 5) in the second moving system 22 (Specification, p. 17, Para. 74, lines 17 to 21). The objects 46, 47 (Fig. 1) are magnetized (specification, p. 18, para. 76, lines 20 to 25). The openings 35, 37 in the second moving system 22, moreover, house respective receptor conductive coils (only receptor coils 43, 44 are shown in the drawing) for converting the kinetic energy of the individual incoming objects 46, 47 into electrical energy (Specification, p. 17, para. 74, lines 9 to 21).

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United States Code of Federal Regulations

Title 37 - Patents, Trademarks and Copyrights

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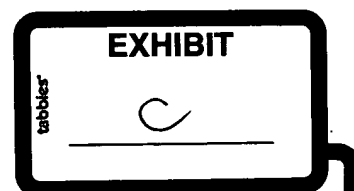
WEBSTER'S NEW WORLDTM COLLEGE DICTIONARY

Fourth Edition

Michael Agnes
EDITOR IN CHIEF



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of a group from this people that invaded and occupied Spain in the 8th cent. A.D. — **Moor'-ish** *adj.*

moorage (moor'ij) *n.* 1 a mooring or being moored 2 a place for mooring 3 a charge for the use of such a place

moor-cock (-kāk') *n.* [Brit.] the male moorfowl, or red grouse

Moore (moor) 1 **G(eorge) E(dward)** 1873-1958; Eng. philosopher 2 **George (Augustus)** 1852-1933; Ir. novelist, playwright, & critic 3 **Henry** 1898-1986; Eng. sculptor 4 **Marianne (Craig)** 1887-1972; U.S. poet 5 **Thomas** 1779-1852; Ir. poet

moor-fowl (moor'foul') *n.* [Brit.] RED GROUSE

moor-hen (-hen') *n.* 1 [Brit.] the female moorfowl, or red grouse 2 the nearly worldwide common gallinule (*Gallinula chloropus*)

mooring (moor'in) *n.* 1 the act of a person or thing that moors 2 [often pl.] the lines, cables, etc. by which a ship, etc. is moored 3 [pl.] a place where a ship, etc. is or can be moored 4 [often pl.] beliefs, habits, ties, etc. that make one feel secure

moor-land (-land') *n.* [Brit.] MOOR'

***moose** (mōs) *n., pl. moose* [**< Eastern Abenaki mos**] a deer (*Alces alces*) of N regions, the male of which has huge spatulate antlers and weighs up to 815 kg (c. 1,800 lb); it is the largest of the deer family: see also ELK (sense 1)

moose-bird (mōs'bard') *n.* [Cdn.] CANADA JAY

Moose-head Lake (mōs'hed') [transl. of AmInd name] lake in WC Me.: 117 sq mi (303 sq km)

moo shu pork (mō' shōō pōrk') a Chinese dish made of shredded pork and vegetables and beaten eggs, sautéed and usually served in a crêpe with hoisin sauce



MOOSE

moot (moot) *n.* [ME *mote* < OE *mot*, *gemot*, a meeting & prob. ON *mot* < Gmc base **mot-* > Goth *gamotjan*, to meet] 1 an early English assembly of freemen to administer justice, decide community problems, etc. 2 a discussion or argument, esp. of a hypothetical law case, as in a law school — *adj.* 1 subject to or open for discussion or debate; debatable 2 not worthy of consideration or discussion because it has been resolved or no longer needs to be resolved — *vt.* 1 to debate or discuss 2 to propose or bring up for discussion or debate 3 to make so hypothetical as to deprive of significance; make academic or theoretical

moot court a mock court in which hypothetical cases are argued, usually as an academic exercise for law students

mop¹ (māp) *n.* [Early ModE *mappe*, naut. term < ? Walloon *mappe* < L *mappa*, napkin: see MAP] 1 a bundle of loose rags, yarns, a sponge, etc. fastened to the end of a stick; as for washing or wiping floors 2 anything suggestive of this, as a thick head of hair — *vt.* mopped, mop'-ping to wash, rub, wipe, or remove with or as with a mop — *mop up* 1 [Informal] a) to bring or come to an end; finish b) to defeat completely 2 *Mil.* to clear out or round up isolated or scattered remnants of beaten enemy forces from a town, battle area, etc.) — *mop (up) the floor* with [Slang] to defeat decisively — *mop'-per* *n.*

mop² (māp) *n., vi.* mopped, mop'-ping [**< or akin to MDu** *moppen*, MHG *muffen*, to grimace: for base see MOPE] [Archaic] GRIMACE

***mop-board** (māp'bōrd') *n.* BASEBOARD

mope (mōp) *vi.* moped, mop'-ing [akin to MDu *mopen*, Swed dial. *mopa* < IE base **mu-*, echoic of sound made with tightly closed lips > MUTTER, L *mutus*] to be gloomy, dull, apathetic, and dispirited — *vt.* 1 to make gloomy, dull, etc.: used reflexively and in the passive 2 to pass in gloom, dullness, etc.: with *away* — *n.* 1 a person who mopes or is inclined to mope 2 [pl.] low spirits — *mop'er* *n.* — *mop'ey* *adj.*, *mop'y*, or *mop'-ish* — *mop'-ishly* *adv.*

moped (mō'ped') *n.* [Ger < *motorisiertes* *ped(al)*, lit., motorized pedal] a bicycle propelled by a small motor

mop-pet (māp'it) *n.* [dim. of ME *mope*, rag doll < ?] [Informal] a little child: a term of affection

mop-up (māp'up') *n.* a clearing out or rounding up of scattered remnants of beaten enemy forces in an area

moquette (mō'ket') *n.* [Fr.] a kind of carpet or upholstery fabric with a thick, soft, napped surface

mor (mōr) *n.* [Dan, humus < or akin to ON *morth*, a quantity, mass < IE base **mer-*, to rub, grind: see MORDANT] a layer of humus, usually matted or compact, that accumulates on the surface of moist, cool soil

Mor *abbrev.* 1 Morocco 2 Moroccan

MOR *abbrev.* middle-of-the-road: used variously in radio broadcasting to designate styles of popular music that are not extreme

mora (mōr'a, mōr'a) *n., pl. -rae* (-ē) or *-ras* [L, delay: see MERIT] 1 *Linguis.* an arbitrary unit of syllabic length 2 *Prosody* the unit of metrical time, equal to the ordinary short syllable, usually indicated by a breve (˘)

manners or customs < *mos* (gen. *moris*), pl. *mores*, (see MOOD¹): used by CICERO² as transl. of Greek *ethos*, to, dealing with, or capable of making the distinction between right and wrong in conduct 2 relating to, serving to, or in accordance with the principles of right and wrong 3 a conduct or character; sometimes, specif., virtuous conduct 4 designating support, etc. that involves sympathy without action 5 being virtually such because of thoughts, attitudes, etc., or because of its general character 6 based on strong probability (a moral person) on the principle of right conduct rather than on obligation 7 Law based on general observation of custom, etc. rather than on what is demonstrable (moral obligation) 8 a moral implication or moral lesson taught by a story, etc. 2 the conclusion of a fable or story containing a moral principle, standards, or habits with respect to conduct; ethics; sometimes, specif., standards of conduct 4 [Rare] MORALE — *mor'-ally* *adv.*

SYN. — *moral*: implies conformity with the generally accepted standards of goodness or rightness in conduct or character; sometimes, specif., in sexual conduct (a moral person) implies conformity with an elaborated ideal code of principles; sometimes, specif., with the code of a particular person (an ethical lawyer); virtuous implies a morally good character, connoting justice, integrity, and often specificity; righteous implies a being morally blameless or just (righteous anger) — *ANT.* immoral

mo-rale (mə'ral', mō-) *n.* [Fr. fem. of *moral* < L *moralis*] 1 moral or mental condition with respect to confidence, enthusiasm, willingness to endure, etc. within a group, in relation to a group, or within a nation [Rare] MORALITY

moral hazard risk (to an insurance company) arising from possible dishonesty or imprudence of the insured

moral-ism (mōr'al'iz'm, mār'-) *n.* 1 moral teaching 2 a moral maxim 3 belief in or practice of a system of morals from religion

moral-ist (-ist) *n.* 1 a teacher of or writer of moral philosophy 2 a person who adheres to a system of morals; a person who seeks to impose personal morals on others — *moral-is-tic* (mōr'al'is'tik, mār'-) *adj.* 1 moralizing 2 of or pertaining to moralists — *mor'-al-is'-ti-cally* *adv.*

moral-ity (mōr'al'i-tē, mō-, mə-) *n., pl. -ties* [ME *moralitas* < L *moralis*] 1 moral quality or character, or wrongness, as of an action 2 the character of conduct with the principles or standards of right conduct; sometimes, specif., virtue in sexual conduct 3 a principle and wrong in conduct; ethics 4 a particular system of morals 5 moral instruction or a moral lesson 6 a particular moral lesson 7 MORALITY PLAY

moral-ity play any of a class of allegorical dramas of the 16th cent., the characters of which personify abstract concepts: Everyman, Vice, Virtue, etc.

moral-ize (mōr'al'iz', mār'-) *vi., -ized', -iz'-ing* [Fr. *moraliser* < L *moralis*] to think, write, or speak about right and wrong, often in a self-righteous or tedious way; to interpret or explain in terms of right and wrong the moral in or draw a moral from 2 to improve the moral philosophy

moral philosophy ETHICS

mo-rass (mə'ras', mō-) *n.* [Du *moeras*; a flat, marshy tract < OFr *mares* < Frank **marisk*, a swamp, akin to *mar* a tract of low, soft, watery ground; bog; marshy; figuratively of a difficult, troublesome, or perplexing situation] affairs

mora-to-rium (mōr'a tōr'ē om) *n., pl. -ri-ums* or *-ria* [Du neut. of LL *moratorium*, delaying < L *morare*, to delay: see MERIT] 1 a legal authorization, usually granted in an emergency, to delay payment of money due by a debtor nation 2 the effective period of such an authorization 3 any authorized delay or stopping of some specified activity

mora-tory (mōr'a tōr'ē) *adj.* [LL *moratorium*: see above] postponing; esp., designating or of a law authorizing a moratorium

Mo-rava (mōr'a vā) 1 *Czech name for MORAVIA* 2 a river flowing south along the Austrian border, 230 mi (370 km) 3 river in E Yugoslavia, flowing into the Danube: 134 mi (216 km)

Mo-ra-via² (mō'rā'vē; it mō'rā'vyā), Al-Berqā' *n.* [Arab. *al-Berqā'* < OFr *marisch* < Frank **marisk*, a swamp, akin to *mar* a tract of low, soft, watery ground; bog; marshy; figuratively of a difficult, troublesome, or perplexing situation] affairs

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Mo-ra-vian (-en) *adj.* 1 of Moravia or its people 2 of the religious sect of Moravians — *n.* 1 a person born in Moravia 2 the variety of Czech spoken in Moravia 3 a Protestant sect founded in Saxony (c. 1722) by Count Nikolaus von Zinzendorf

***mo-ray** (mō'rā' mō'rā', mō-) *n.* [Port *moreia* < L *mo-*

mare, lifeless] 1 of, having, or resulting from or as if from, having or showing an unwelcome or gloomy matters 3 grounds or details of a story/ 4 of disease 5 [Rare] causing disease

mor-bid (mōr'bid) *n., pl. -ties* 1 state of mind or feeling, esp. gloomy or morose 2 the rate of disease or mortality in a given locality, nation, etc.

mor-bid (mōr'bid) *adj.* [Fr *morbifique* < L *morbidus*, disease (see above)] causing or leading to disease: al 2 the conclusion of a fable or story containing a moral principle, standards, or habits with respect to conduct; ethics; sometimes, specif., standards of conduct 4 [Rare] MORALE — *mor'-ally* *adv.*

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